

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

HENNING MANAGEMENT, LLC

VERSUS

CHEVRON U.S.A. INC. et al.

CIVIL ACTION NO. 2:20-CV-00004

JUDGE JAMES D. CAIN, JR.

MAG. JUDGE KATHLEEN KAY

**CHEVRON U.S.A. INC'S RENEWED AND REVISED MOTION FOR REFERRAL TO
THE LOUISIANA DEPARTMENT OF NATURAL RESOURCES FOR THE
DEVELOPMENT OF THE MOST FEASIBLE PLAN**

NOW INTO COURT, through undersigned counsel, comes defendant Chevron U.S.A. Inc. (“Chevron”), who respectfully moves this Court for an Order referring this matter to the Louisiana Department of Natural Resources (“LDNR”) for the development of the Most Feasible Plan, as required by La. R.S. 30:29 (“Act 312”). Chevron previously filed submitted a Limited Admission pursuant to Act 312, in which it admits: (1) that “environmental damage” exists on specific portions of Plaintiff’s property; and (2) that Chevron is a “responsible party” under Act 312 and, therefore, responsible for developing and implementing the Most Feasible Plan “to evaluate, and if necessary, remediate all or a portion of the contamination that is subject to the litigation to applicable regulatory standards.” (ECF No. 77). Concurrently with that filing, Chevron filed a Motion for Referral to LDNR (ECF No. 78), which Plaintiff initially opposed (ECF No. 79). Plaintiff has since withdrawn its opposition to Chevron’s original Motion. (ECF No. 85). Chevron submits the present Motion to obtain an Order referring this matter to the LDNR for the development of the Most Feasible Plan, as required by Act 312, with specific deadlines that account for the recent trial continuance.

Respectfully submitted,

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**CHEVRON U.S.A. INC'S MEMORANDUM IN SUPPORT OF ITS RENEWED AND
REVISED MOTION FOR REFERRAL TO THE LOUISIANA DEPARTMENT OF
NATURAL RESOURCES FOR THE DEVELOPMENT
OF THE MOST FEASIBLE PLAN**

MAY IT PLEASE THE COURT:

Chevron U.S.A. Inc. (“Chevron”) previously filed a limited admission under Louisiana Revised Statute § 30:29 (“Act 312”), admitting that “environmental damage” exists on a portion of Plaintiff Henning Management LLC’s property and that Chevron is a “responsible party” for a specific portion of Plaintiff’s property. Under the explicit terms of Act 312, this Court should refer this matter the Louisiana Department of Natural Resources (“LDNR”) for the development of the “most feasible plan” to evaluate or remediate “environmental damage,” as required by Act 312.

INTRODUCTION

Plaintiff Henning Management, L.L.C. (“Plaintiff”) filed suit alleging that defendants, including Chevron, are responsible for environmental damage to Plaintiff’s property. Plaintiff seeks damages for remediation of the environmental damages allegedly caused by the defendants. Plaintiff admits that Act 312 applies to this suit and governs the manner in which any damages for remediation of environmental damage must be evaluated.

In its Limited Admission, Chevron identifies specific portions of Plaintiff's property upon which there is "environmental damage" as defined under Act 312. Chevron further admits that it is a "responsible party" pursuant to Act 312 in connection with those specific portions of Plaintiff's property.

RELEVANT LAW

The Louisiana Legislature enacted Act 312 "to ensure that damage to the environment is remediated to a standard that protects the public interest" and "set forth the procedure for judicial resolution of claims for environmental damage to property arising from activities subject to the jurisdiction of the Department of Natural Resources, office of conservation." La. R.S. § 30:29(A) (2014).

In 2012, the legislature revised Act 312 to allow parties to make a "limited admission." Through the "limited admission," a party may admit responsibility for "environmental damage," which is broadly defined by Act 312 as "any actual *or potential impact*, damage, or injury to environmental media caused by contamination resulting from activities associated with oilfield sites." *See* La. Rev. Stat. 30:29(I)(2) (emphasis added). Once a limited admission is filed, the Court *must* refer the matter to the LDNR to conduct a public hearing for development of the "most feasible plan" to remediate the damage on the property in accordance with applicable regulatory standards. *See* La. Rev. Stat. 30:29(C). Finally, Act 312 creates a *rebuttable presumption* that the feasible plan approved by LDNR shall be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards. *See* La. Rev. Stat. 30:29(C)(2)(c).

CHEVRON'S ADMISSION

Pursuant to Act 312 and Louisiana Code of Civil Procedure article 1563, Chevron has admitted that “environmental damage,” as defined by Act 312, exists on the portions of Plaintiff’s property identified in Exhibit A. Further, Chevron has admitted that it is a “responsible party” under Act 312 with respect to those portions of the property. As required by Act 312, Chevron moves this Court to refer this matter to the Louisiana Department of Natural Resources for the development of the “Most Feasible Plan.” Chevron submits herewith a proposed Order, referring this matter to the LDNR with certain deadlines for the necessary submissions. Plaintiff does not oppose the deadlines set forth therein.

Respectfully submitted,

/s/ Louis M. Grossman

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ORDER

Considering Chevron U.S.A. Inc.'s ("Chevron") Limited Admission Pursuant to La. R.S. 30:29 and Chevron's Motion for Referral to the Louisiana Department of Natural Resources for the Development of the Most Feasible Plant Pursuant to La. R.S. 30:29,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

- (1) Pursuant to Louisiana Revised Statute 30:29 ("Act 312"), Chevron enters a limited admission of responsibility for the environmental damage, as defined in La. R.S. 30:29(I)(1), which exists on property identified on "Exhibit A" attached hereto in Calcasieu and Jefferson Davis Parishes, Louisiana.
- (2) Chevron's limited admission is limited to the "responsibility for implementing the most feasible plan to evaluate, and if necessary, remediate all or a portion of the contamination that is subject to the litigation to applicable regulatory standards" on the portions of the property identified on Exhibit A.
- (3) Chevron's limited admission is not an admission of private liability for any of Plaintiff's private claims and is not to be construed as a waiver of any affirmative defenses.

- (4) Chevron shall develop a plan for the evaluation or remediation of “environmental damage” as provided in La. R.S. 30:29(C) to applicable standards of the contamination that resulted in environmental damage to the portions of the property described on Exhibit A;
- (5) Chevron’s plan, as described above, shall be developed and submitted to the Louisiana Department of Natural Resources by certified mail with return receipt requested and Chevron shall file such plan with the Court on August 5, 2022;
- (6) Plaintiff or any other party shall have thirty (30) days from the date Chevron’s plan is filed with the Court to review the plan and submit or provide to the Louisiana Department of Natural Resources and the Court comments, input, and/or its own plan in response to Chevron’s plan. No plan may be submitted to the Court under La. R.S. 30:29(C)(3)(b)(5) unless that plan was timely provided to the Louisiana Department of Natural Resources;
- (7) The Louisiana Department of Natural Resources shall submit to the Court a schedule of estimated costs for review of the plans or submittals of the parties; and
- (8) Any further proceedings with respect to the plan submitted by Chevron, the Louisiana Department of Natural Resources, Plaintiff, or any other party, shall be conducted pursuant to the procedures set forth in La. R.S. 30:29.

THUS DONE AND SIGNED, this ____ day of _____, 2022.

Judge, U.S. District Court for the
Western District of Louisiana